

Remarks

This is in response to the Office Action dated September 16, 2005.

Per the above amendment, appropriate headings have been added to the specification.

Claims 1-5, 7-8 and 11 were rejected under 35 U.S.C. 102(b) as being anticipated by Brain (US 5,632,271) and claim 6 was rejected under 35 U.S.C. 103(a) as being obvious over brain.

Per the above amendment, claims 1 and 7 each have been amended.

In particular, in light of the comments made by the examiner relating to claim 1 (in the first parenthetical in item 3 on page 3 of the Office Action), to eliminate any confusion that may have arisen with the word "interruption", claim 1 has been amended to state that there is no "obstructing structure" in the entire recess of the mask so that the entire recess, namely the atrium portion (54) of the claimed mask is available for receiving patient tissue. In other words, as shown in the cross-sectional view of Fig. 2 of the instant application, the space from opening 61 to the roof 40 of the atrium recess 54 is opened, so as to prevent blockage of the epiglottis. See the last paragraph on page 4 of the specification.

In contrast, the Brain mask has a masking member 18 (shown in Figs. 2 and 4) that has openings 20, 20' that allow air to pass through from the air inlet. Given that openings 20, 20' may be blocked by the epiglottis, there is a chance that air could not pass to the patient. The mask of the instant invention, on the other hand, given that there is no obstruction in the recess, air flow to the patient is not impeded, even if the epiglottis of the patient is positioned in such a way that it would have impeded the air flow in the Brain mask. The advantage given by the lack of bars or the like in the claimed mask is that the entire height of the mask recess is available to receive the epiglottis and, therefore, there is a reduced risk that the epiglottis will block the passage through the mask. Accordingly,

it is respectfully submitted that claims 1-6 and 11 are neither anticipated by, nor obvious over, Brain.

Regarding the rejection of claims 7 and 8, in light of the comments made by the examiner (item 8 on page 4 of Office Action), it is apparent that the examiner must have taken the measurements "H" and "D" marked on the attached enlarged photocopy (Appendix) to compute the number 3.2 as the ratio. As mentioned above, the purpose of the high recess in the present invention is to provide space to receive the epiglottis and reduce the risk of blockage. This is negated in the arrangement of Brain because of the presence of the bars 21. In the cited arrangement, the true height of the recess in Brain available to receive the epiglottis is determined by the location of the bars so the height should be measured as "S" shown in the Appendix drawing. If the ratio of S/D is calculated, it comes to 1.8, which is way outside the range of 2.5 to 3.5 specified in Claim 7.

In view of the foregoing, it is respectfully submitted that the claimed invention is patentably distinguishable over the prior art. Accordingly, the examiner is respectfully requested to enter the amendment, reconsider the application and pass the case to issue at an early date.

Respectfully submitted,



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FIG. 2

F I G. 3

FIG. 4

Appendix